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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,421	07/01/2003	Hiroshi Ohkura	03500.014730.1	9477

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EXAMINER

BERNATZ, KEVIN M

ART UNIT PAPER NUMBER

1773

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/609,421

Applicant(s)

OHKURA ET AL.

Examiner

Kevin M Bernatz

Art Unit

1773

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: 6.

Claim(s) rejected: 6-15.

Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 2. NOTE: the proposed language was not previously considered and would require further search and/or consideration.

Continuation of 5. does NOT place the application in condition for allowance because: applicants' arguments are directed to the unentered amendment. In so far as they apply to the present rejections of record, applicants argue that "resist" has not been given the proper interpretation. The Examiner respectfully disagrees.

The Examiner notes that the resist is not a layer present in the final product, which is the structure that is presently being claimed. I.e. applicants have no support for the alleged structure of electrical conductor/insulator/resist/anodized layer wherein the anodized and insulator layer meet the claimed columnar parts limitations in base claim 11. The resist pointed to by applicants is a temporary layer which is removed before the anodized layer is subsequently deposited and the only effect of the "resist" is to form the insulator layer into a pattern, hence the interpretation given by the Examiner to claim 15.

With regard to the proposed claim amendments, the Examiner deems that while the amended language of claim 6 would appear to distinguish over the art of record, further search and/or consideration would be required before any indication of patentability for claims 6-10. Regarding claim 11, the Examiner notes that the recited structure in Iwasaki et al. would appear to still read on the claimed limitations since Iwasaki et al. discloses a Si substrate/SiO_x "insulator" layer/AlO_x anodized layer, wherein the Si serves as an electrode and the columns are explicitly taught to extend to the substrate (i.e. the Si layer). Since they are taught to extend to the Si layer, the Examiner deems they must necessarily pass through the SiO_x "insulator" layer.

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12/23/04